

Chapter 120

STREETS AND SIDEWALKS

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[HISTORY: Adopted by the Town Board of the Town of Hartland: Art. I, 8-8-1974 by L.L. No. 1-1974; Art. II, 2-13-1997 by L.L. No. 1-1997. Amendments noted where applicable.]

ARTICLE I
Notification of Defects
[Adopted 8-8-1974 by L.L. No. 1-1974]

§ 120-1. Notice required.

- A. No civil action shall be maintained against the Town of Hartland, hereinafter referred to as the "town," or the Town Superintendent of Highways of the town or against any improvement district in the town for damages or injuries to person or property, including those arising from the operation of snowmobiles, sustained by reason of any highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by any improvement district therein being defective, out of repair, unsafe, dangerous or obstructed, unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district was actually given to the Town Clerk of the town or the Town Superintendent of Highways of the town and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property, sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the town or any property owned by any improvement district in the town, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the town or the Town Superintendent of Highways of the town and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.
- B. No civil action will be maintained against the town and/or the Town Superintendent of Highways of the town for

damages or injuries to person or property, sustained by reason of any defect in the sidewalks of the town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the town or the Superintendent of Highways of the town pursuant to statute, nor shall any action be maintained for damages or injuries to person or property, sustained by reason of such defect or in consequence of such existence of snow or ice, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the town or to the Town Superintendent of Highways of the town and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 120-2. Transmittal of notice to Clerk. [Amended 11-10-1983 by L.L. No. 6-1983]

The Town Superintendent of Highways of the town shall transmit, in writing, to the Town Clerk of the town, within 10 days after receipt thereof, all written notices received by said Superintendent pursuant to this article, and said Superintendent shall take any and all necessary corrective action with respect thereto as soon as practicable.

§ 120-3. Maintenance of records.

The Town Clerk of the town shall keep an index record in a separate book of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice and snow upon, any town highway, bridge, culvert or sidewalk or any other property owned by the town or by an improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a

period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Superintendent of Highways of the town of the receipt of such notice.

§ 120-4. Construal of provisions.

Nothing contained in this article shall be held to repeal, modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the town, its officers and employees and/or any of its improvement districts any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

ARTICLE II

Road Work

[Adopted 2-13-1997 by L.L. No. 1-1997]

§ 120-5. Purpose.

The Town Board of the Town of Hartland finds that excavating and work within town right-of-way areas may be hazardous to be public; places burden on the officials of the town charged with the responsibility of maintaining such highways and that the regulation work done within highway rights-of-way as authorized by Section 130(7)(a) of the Town Law of the State of New York and other provisions of law will be in the best interests of the health, safety and welfare of the citizens and property of the town.

§ 120-6. Title.

This article shall be entitled the "Town Road Work Permit Law of the Town of Hartland."

§ 120-7. Territorial application.

This article shall apply to all that portion of the Town of Hartland outside the Village of Middleport.

§ 120-8. Definitions.

As used in this article, the following terms shall have the meanings indicated:

PERSON — Includes any person, partnership, firm, corporation, municipality, utility or any other entity.

WORK — Any excavation, drilling, construction, erection of poles, laying or stringing of wires, placement of culverts, drains, conduits, sewer or water pipes or any other structure, excluding mailboxes.

§ 120-9. Permit required; regulations; permit fee.

- A. No person shall perform any work within the right-of-way of any town road or highway without first obtaining a permit for such work from the Superintendent of Highways of the Town of Hartland.
- B. Any person desiring to perform work in the town highway right-of-way shall make application for such work permit application provided by the Superintendent of Highways and shall pay the fee established for such permit upon submission of the same and prior to processing by the Highway Superintendent.
- C. The Highway Superintendent may require additional information as needed to determine whether to issue a permit, and the conditions thereof, and may require

detailed plans, specifications and blueprints stamped by a licensed architect or engineer. This requirement may be waived in the discretion of the Highway Superintendent where they are not necessary for a determination.

- D. No permit shall be issued where the Superintendent of Highways determines that the work will unduly damage highways, impair safety, impose an undue burden on the town or where the purpose may, in the opinion of the Superintendent of Highways, be accomplished without utilizing the highway right-of-way. No permit shall be issued where the work sought to be performed will unduly interfere with or duplicate that of municipalities or public utilities.
- E. The Highway Superintendent may, wherever he determines it to be in the best interest of the town, require boring or drilling under the roadway, as opposed to highway cuts.
- F. The fee for a permit shall be \$50, or such different fee as the Town Board shall, from time to time, determine by resolution. Said fee is for permit processing, and an additional amount may be required for expenses incurred by the town resulting from the work.

§ 120-10. Additional regulations.

The Town Board may, from time to time by resolution, establish additional regulations governing the issuance of town highway work permits.

§ 120-11. Bond; cash deposits.

The Highway Superintendent may require, in his discretion, the posting of a bond or of a cash deposit in an amount estimated by him to be necessary to repair any damage to the town highway as a condition for issuance of a highway work permit.

§ 120-12. Existing facilities; map required.

Any person who has existing work, consisting of any underground wires, cables, conduits, pipes, water or sewer lines, located in the right-of-way of any town highway shall, within 30 days of the effective date of this law, file a map with the Superintendent of Highways locating said work with reasonable accuracy. The Town of Hartland shall not be responsible for damage to any work in highway rights-of-way where such map has not been filed.

§ 120-13. Penalties for offenses.

- A. Any violation of this article shall be punishable by a fine not to exceed \$250 or by imprisonment not to exceed 15 days, or by both such fine and imprisonment. No person violating this law shall be excused from punishment because he is employed by a corporation or other entity.
- B. In addition, any violation of this article or any work permit issued shall constitute the revocation of such permit. Any work performed in violation of this law shall be immediately removed, and the Town Superintendent of Highways is authorized to cause such removal, and repair and restoration of the highway right-of-way, and the cost of such removal, restoration and repair shall be borne by the person violating this law or the permit.
- C. The town shall be entitled to obtain an injunction in Supreme Court to prevent any violation of this law or of the terms of a permit and to recover any and all damages caused by a violation of this law, or the terms of a permit, including costs, expert and engineering fees and attorneys' fees, and any cost of removing any work and of repairing or remediating the highway and other town facilities.

